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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
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MARVIN ANTHONY SMITH,

Petitioner,

**MEMORANDUM & ORDER**  
05-CV-1243 (NGG)

- against -

UNITED STATES OF AMERICA,

Respondent.

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NICHOLAS G. GARAUFIS, United States District Judge.

By Memorandum and Order dated July 16, 2008, the court advised Petitioner Marvin Anthony Smith ("Petitioner") that his motion pursuant to 28 U.S.C. § 2255 would be dismissed after thirty days unless he demonstrated that his release and deportation did not render his motion moot. No response having been received from Petitioner within the allotted time, the motion is therefore dismissed as moot. The Clerk of Court is directed to close this case. No certificate of appealability shall issue.

SO ORDERED

s/Nicholas G. Garaufis

Date: August 25, 2008  
Brooklyn, N.Y.

NICHOLAS G. GARAUFIS \\\  
United States District Judge